

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
GREENVILLE DIVISION**

ADDIE HERROD

PLAINTIFF

V.

NO. 4:21-CV-40-DMB-DAS

WAL-MART STORES EAST, L.P.

DEFENDANT

ORDER

On February 12, 2021, Addie Herrod filed a complaint in the Circuit Court of Bolivar County, Mississippi, against Wal-Mart Stores East, L.P., alleging that she was injured on the premises of the Cleveland, Mississippi, Wal-Mart store due to Wal-Mart's negligence. Doc. #2. Wal-Mart, invoking diversity jurisdiction, removed the case to the United States District Court for the Northern District of Mississippi on March 29, 2021. Doc. #1.

The notice of removal states that Wal-Mart is a limited partnership organized in Delaware whose sole general partner is WSE Management, LLC, a Delaware limited liability company; and whose sole limited partner is WSE Investment, LLC, another Delaware limited liability company. *Id.* at 2. The notice of removal further alleges that Wal-Mart Stores East, LLC, an Arkansas limited liability company, is the sole member of both WSE Management and WSE Investment. *Id.* Finally, the notice of removal alleges that "Walmart, Inc. is the parent corporation of the referenced entities and was at the time of filing of the Complaint and still is a corporation organized under the laws of the State of Delaware with its principal place of business in the State of Arkansas." *Id.* Accordingly, Wal-Mart alleges that "there is complete diversity of citizenship as Plaintiff is a resident of the State of Mississippi, and Defendant Wal-Mart Stores East, LP is a resident of the States of Delaware and Arkansas." *Id.*

The Court has “an independent obligation to determine whether subject-matter jurisdiction exists, even in the absence of a challenge from any party.” *Arbaugh v. Y & H Corp.*, 546 U.S. 500, 514 (2006). Diversity jurisdiction requires that there be (1) complete diversity between the parties and (2) an amount in controversy more than \$75,000. 28 U.S.C. § 1332; *Caterpillar Inc. v. Lewis*, 519 U.S. 61, 68 (1996). Complete diversity requires that “all persons on one side of the controversy … be citizens of different states than all persons on the other side.” *Smith v. Toyota Motor Corp.*, 978 F.3d 280, 281 (5th Cir. 2020).

The citizenship of a limited partnership is determined by the citizenship of its partners. *Americold Realty Tr. v. Conagra Foods, Inc.*, 136 S. Ct. 1012, 1015 (2016). The same rule applies to LLCs and their members. *Acadian Diagnostic Labs., L.L.C. v. Quality Toxicology, L.L.C.*, 965 F.3d 404, 408 n.1 (5th Cir. 2020). Thus, “[a] party seeking to establish diversity jurisdiction must specifically allege the citizenship of *every* member of *every* LLC or partnership involved in a litigation.” *Settlement Funding, L.L.C. v. Rapid Settlements, Ltd.*, 851 F.3d 530, 536 (5th Cir. 2017) (emphasis added).

Here, it appears that Wal-Mart’s citizenship depends on the citizenship of WSE Investment and WSE Management. The citizenship of these two entities depends on the citizenship of Wal-Mart Stores East, LLC. The citizenship of Wal-Mart Stores East, LLC, depends on the citizenship of its members. But Wal-Mart’s statement that “Walmart, Inc. is the parent corporation of the referenced entities” does not specify whether Walmart, Inc. is a member of Wal-Mart Stores East, LLC, or whether there are other members of Wal-Mart Stores East, LLC, whose citizenship must be considered in determining whether diversity jurisdiction exists. Accordingly, within seven (7) days of the entry of this order, Wal-Mart, as the party invoking this Court’s jurisdiction, may file an amendment to the notice of removal pursuant to 28 U.S.C. § 1653 only to cure (or clarify) the

deficient allegations of citizenship. If it fails to do so, this action will be remanded for lack of jurisdiction.

SO ORDERED, this 9th day of April, 2021.

/s/Debra M. Brown
UNITED STATES DISTRICT JUDGE